

UNITED STATES DISTRICT COURT
for the
Eastern District of Michigan

United States of America

v.

Donald Benjamin Smith, Jr.,

Case: 4:20-mj-30034

Judge: Hluchaniuk, Michael J.

Filed: 01-23-2020

CMP USA v. Donald Benjamin Smith, Jr. (dw)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of January 22, 2020 in the county of Genesee in the
Eastern District of Michigan, the defendant(s) violated:

*Code Section**Offense Description*

18 U.S.C. § 922(g)(1)

Felon in possession of a firearm

18 U.S.C. § 924(c)

Possession of a firearm in furtherance of a drug trafficking offense

This criminal complaint is based on these facts:

That on or about January 22, 2020, in the Eastern District of Michigan, Donald Benjamin Smith, Jr., knowing that he had been convicted of a felony offense punishable by a term of imprisonment exceeding one year, knowingly possessed, in and affecting commerce, firearms in violation of 18 U.S.C. § 922(g)(1), and possessed those firearms in furtherance of a drug trafficking offense in violation of 18 U.S.C. § 924(c).

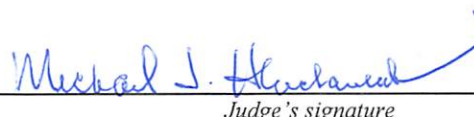
☒ Continued on the attached sheet.

Complainant's signature

Dustin Hurt, Special Agent, ATF

Printed name and title

Sworn to before me and signed in my presence.

Date: January 23, 2020City and state: Flint, MI

Judge's signature

Michael Hluchaniuk, U.S. Magistrate Judge

Printed name and title

AFFIDAVIT

1. I have been employed as a Special Agent with the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) since October of 2018. I am currently assigned to the Detroit Field Division, Flint Field Office. Before working for the ATF, I was employed by the Michigan Department of State Police (MSP) for approximately seven years. Before working for MSP, I was a local police officer for the Grand Ledge Police Department for approximately three years. I held numerous positions with the MSP, including Detective Sergeant in the Polygraph Unit and Task Force Officer with the FBI. During my employment with ATF and MSP, I have conducted or participated in numerous criminal investigations focused on firearms, armed drug trafficking, and criminal street gangs, and other violations of federal law.

2. I make this affidavit from personal knowledge based on my participation in this investigation, my review of reports and other materials prepared by those who have personal knowledge of the events and circumstances described herein, and information gained through my training and experience. The information outlined below is provided for the limited purpose of establishing probable cause and does not contain all details or all facts of which I am aware relating to this investigation.

3. I am currently investigating DONALD BENJAMIN SMITH, JR., date

of birth XX/XX/1978, for violations of federal firearms and drug laws, including violations of 18 U.S.C. § 922(g)(1) (felon in possession of firearms) and 18 U.S.C. § 924(c) (possession of firearms during and in relation to a drug-trafficking crime).

4. On January 22, 2020, state law enforcement officers executed a state search warrant at 2918 Nathan Avenue, Flint, MI. Based on the state investigation, officers believed the home was SMITH's residence. During the execution of the search warrant, law enforcement located a gun safe in SMITH's bedroom. After looking at the contents of the safe, officers notified me and I went to the scene. At the scene I observed paperwork which had been in the safe. The paperwork appeared to belong to SMITH and including tax information, ADT bills, and Xfinity cable bills. I also observed the following items which were in the safe:

- a 44 mm grenade launcher with a spent 44mm casing within it;
- an Anderson Manufacturing, Model AM-15, .223 caliber pistol which was loaded with a chambered round and with a magazine containing fifty-seven .223 caliber rounds;
- a Ruger, Model LCP, .380 caliber semi-automatic pistol which was loaded with a chambered round and an extended magazine containing eleven rounds. The extended magazine appears capable of accepting more than 25 rounds;
- a Taurus, Model 85, .38 caliber five-shot revolver which was loaded with five

rounds of ammunition;

- loose rounds of assorted ammunition;
- a plastic bag containing three individually packaged substances. Based on my training and experience and my observations of the packaging and physical characteristics of the substances, the substances appeared to be 1.8 grams of cocaine, 8.6 grams of methamphetamine, and 20 pills marked M-365 which based on a drug-identification database are pills containing hydrocodone, a controlled substance. The amount of the substances appeared to be consistent with distribution.

5. Law enforcement searched the kitchen of the residence. On the kitchen table officers found a box containing good sense sandwich baggies and two digital scales. I am aware that plastic baggies and digital scales are commonly used in the distribution of controlled substance. Next to the baggies and scales, was a substance which appeared to be approximately one half gram of methamphetamine that was wrapped in a yellow piece of paper. Draped over two separate chairs to the kitchen table were two separate sets of body armor. I am aware that people who are engaged in drug trafficking often use body armor to protect themselves and their drugs.

6. I conducted a search of SMITH's criminal history which showed that he has prior convictions for felony offenses punishable by a term of imprisonment

exceeding one year, including the following:

- September 25, 1998, in the Genesee County Circuit Court for delivery/manufacture of marijuana/synthetic equivalents. SMITH was sentenced to 36 months of probation.
- May 3, 1999, in the Lapeer County Circuit Court for unarmed robbery and home invasion second degree. SMITH was sentenced five to fifteen years in prison.
- On June 11, 2012, in the Genesee County Circuit Court for breaking and entering with intent. SMITH was sentenced to 38 to 180 months in prison, and he was discharged from parole on June 30, 2017.

Smith's criminal history records also indicate that in November 2005, he was sentenced in Georgia to 18 months in prison for possession of cocaine, aggravated assault, and fleeing and eluding police. Based on Smith's multiple prior felony convictions and sentences, I believe that on January 22, 2020, Smith knew he had been convicted of an offense punishable by a term of imprisonment exceeding one year.

7. I have spoken with ATF Special Agent Kyle Salcido, who is recognized by ATF as having expertise in the interstate travel and manufacture of firearms. SA Salcido advised me that the AM-15 .223 caliber pistol, the Ruger .380 caliber pistol,

and the Taurus .38 caliber revolver (all described in paragraph 4) were all manufactured outside of the state of Michigan and are firearms as defined in Chapter 44, Title 18, United States Code.

8. Based on the foregoing, I have probable cause to believe that on January 22, 2020, in the Eastern District of Michigan, Donald Benjamin Smith Jr, knowing that he had been convicted of a felony offense punishable by a term of imprisonment exceeding one year, knowingly possessed, in and affecting commerce, firearms in violation of 18 U.S.C. § 922(g)(1), and possessed those firearms in furtherance of a drug trafficking offense in violation of 18 U.S.C. § 924(c).

Dated: January 23, 2020.



Dustin Hurt
Special Agent
Bureau of Alcohol, Tobacco, Firearms and
Explosives

Sworn to before me and signed in my presence on JAN 23 2020.



HON. MICHAEL J. HLUCHANIUK
UNITED STATES MAGISTRATE JUDGE